

*Paramount Communications Inc.*

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FEDERAL COMMUNICATIONS COMMISSION  
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Daniel Victor  
Senior Counsel

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April 23, 1993

**BY HAND**

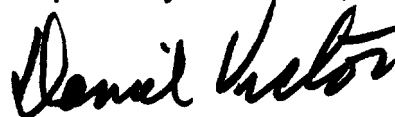
Ms. Donna R. Searcy  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

RE: PP Docket No. 93-21  
Inquiry Into Sports Programming Migration

Dear Ms. Searcy:

On behalf of Madison Square Garden Corporation, I am transmitting herewith an original and nine copies of its additional comments in the above-referenced proceeding.

Respectfully submitted,



Daniel Victor

DV:yw  
Enclosures

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APR 26 1993

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Before The  
Federal Communications Commission

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In the Matter of  
Implementation of Section 26 of the )  
Cable Television Consumer Protection )  
and Competition Act of 1992 )

PP Docket No. 93-21

To: The Commission

Inquiry into Sports Programming Migration

**ADDITIONAL COMMENTS OF MADISON SQUARE GARDEN**  
**CORPORATION**

Madison Square Garden Corporation ("MSG"), hereby files the enclosed additional comments in connection with the Commission's Notice of Inquiry Into Sports Programming Migration, FCC 93-21 (released February 9, 1993). Specifically, MSG submits these brief comments to correct for the record certain statements made by Tribune Broadcasting Company ("Tribune") in its Reply Comments filed in this docket on April 12, 1993.

In November 1988, MSG acquired from the New York Yankees media exploitation rights to all Yankee games for a period of twelve years, subject to the Yankees' existing broadcast agreement with WPIX-TV, Tribune's station. Tribune, while acknowledging that it had ample opportunity to analyze MSG's proposal to the Yankees, as well as a contractual right to match it, nevertheless suggests that "the

economics of broadcast television could not support a deal of the financial magnitude of the MSG/Yankees deal." Tribune Reply Comments at page 2. This conclusory statement is made without any factual substantiation or economic analysis, except for the simplistic statement that WPIX remains dependent on advertising revenues and not on subscriber revenues to repay its program costs. Thus, Tribune argues, the Yankees' deal with Madison Square Garden Network ("MSG Network") would have been uneconomic for WPIX, even though "WPIX's signal may reach more homes in the New York market than MSG...." Id.

Tribune's analysis is flawed. It suggests that in assessing its ability to pay for a deal with the Yankees, it would be confined to advertising revenues in the New York market. WPIX, however, is a "super-station," reaching 9.2 million cable subscribers nationally<sup>1</sup>, a significantly larger audience from which to garner sufficient advertising revenues to pay for its programming than the audience confined to just the New York market. Furthermore, other "super-stations" have crafted deals to acquire broadcast rights to major league baseball games, among them WWOR-TV, which acquired rights to broadcast New York Mets games and three other "super-stations" owned by Tribune: WGN-TV, KWGN-TV and KTLA-TV, which acquired rights to broadcast White Sox games, Colorado Rockies games and (in the case of KTLA) California Angels and Los Angeles Dodgers games, respectively. Tribune Comments in PP Docket No. 93-21, dated March

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<sup>1</sup> Broadcasting & Cable Marketplace, 1992.

29, 1993, at page 2 - 3. In the absence of any showing why WPIX' huge demographic pool could not produce adequate revenues to pay for the Yankees games -- particularly in light of the fact that WPIX could have shared the financial burden of acquiring those games by licensing a portion of them to MSG Network or to Sportschannel -- Tribune's statements shed no light whatsoever on why it found it commercially preferable to negotiate with MSG Network rather than submit a competing bid to the Yankees for the total package of games.

Tribune is plain wrong when it states that the Yankees "games were offered to WPIX by MSG...on the condition that MSG would retain the advertising sales rights." Tribune Reply Comments at page 3. The fact is that on June 27, 1989, MSG offered WPIX 50 regular season games per year for three seasons: WPIX was to retain rights to sell all the commercial inventory for such games (see "Madison Square Garden Network Proposal" dated June 27, 1989 at paragraph 6, attached as Exhibit 1). WPIX rejected that proposal. Again, nearly a year later on May 10, 1990, MSG offered WPIX 50 to 55 Yankees games for three seasons, with WPIX to retain exclusive rights to all of the commercial time. (See letter of Robert Gutkowski to Michael Eigner dated May 10, 1990, at paragraph 7, attached as Exhibit 2). The documentary record belies Tribune's assertion that MSG Network insisted on retaining the right to sell commercial time for the Yankees games telecast by WPIX. The truth is that WPIX in agreeing with MSG to the telecast of 55 Yankee games in 1991, and 50 games in each of 1992 and 1993, refused to assume the financial risks it had assumed in its past dealings with the Yankees.

Tribune's suggestion that it suffers a loss by selling MSG Network air time for Yankees games is also at odds with the facts. As Tribune admitted in its Reply Comments (page 3), WPIX sells MSG Network time slots for broadcast of Yankees games at a price that "compensates WPIX for the value of the advertising time WPIX would otherwise be able to sell in the valuable time periods occupied by Yankees telecasts." The advertising that WPIX would otherwise sell in the pertinent time periods is undoubtedly profitable -- indeed, Tribune characterized the slots as "valuable." Moreover, since WPIX need not actually sell the advertising time, it is insulated from the risk that advertisers will not pay what might normally be expected, due to poor performance of the Yankees or to the relative attractiveness of competing sports events or other programming. That risk, at WPIX' insistence, is in fact borne exclusively by MSG Network.

Tribune alleges that MSG's Comments misstated the history predating the MSG's agreement with the Yankees. In fact, MSG's pre-1989 account differs with Tribune' only as to the fate of 10 games in the 1987 and 1988 seasons. The fact remains that WPIX telecast 110 Yankees games per season from 1980 through 1986, and that in each of 1987 and 1988, WPIX telecast 50 Yankees games (according to MSG's estimate) or 40 (according to Tribune's).<sup>2</sup>

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<sup>2</sup> MSG Network's estimates of the number of Yankees games telecast by WPIX during the 1987 and 1988 seasons are based on publicly available records -- MSG Network has no reason to doubt Tribune's figure of 40 games, which is presumably based on WPIX' records.

MSG Network acknowledges that its Comments incorrectly assumed that the number of Yankees games telecast by WPIX in 1989 and 1990 remained at the levels telecast in 1987 and 1988.<sup>3</sup> In fact, for each of the 1989 and 1990 seasons, WPIX telecast 75 games. Accordingly, since 1990, the number of Yankees games telecast by WPIX has declined 20 games for the 1991 season, and 25 games for each of the 1992 and 1993 seasons.

### **CONCLUSION**


MSG submits these additional comments with the expectation that they will clarify some of the confusion engendered by Tribune's Reply Comments. But factual disputes between MSG and Tribune should not obscure the key fact on which we both agree, as stated in Tribune's Reply Comments at page 5: "WPIX shares MSG's hope and expectation...that continuing negotiations will result in an agreement that will keep Yankees telecasts available on New York's Channel 11 for years into the future." Thus, the results of MSG Network's acquisition of exclusive video distribution rights to Yankees games has not foreclosed and hopefully will not foreclose in the future their continued telecast in the New York market.

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<sup>3</sup> Tribune is mistaken when it states that WPIX telecast 75 games in 1991 (Tribune Reply Comments at page 4). It telecast only 55 games in that year.

Respectfully submitted,

MADISON SQUARE GARDEN  
CORPORATION

By:   
Daniel Victor, Esq.  
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(212) 373-8556

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Kenneth Munoz  
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Madison Square Garden Corporation  
Two Pennsylvania Plaza  
New York, New York 10121-0091  
(212) 465-6300

June 27, 1989

MADISON SQUARE GARDEN NETWORK  
PROPOSAL

EXHIBIT 1

Madison Square Garden Network ("MSG") proposes to  
license to WPIX-TV Inc. ("WPIX") the television broadcast



respect to pre-season games, by a sum equal to 50% of the applicable pro-rata, per-game fee; and (ii) with respect to additional regular season games, by a sum equal to the applicable pro-rata, per-game fee.

5. Production - MSG shall produce all fifty games per season. WPIX shall remit to MSG a production fee equal to MSG's production costs plus 25%.

In lieu of the foregoing, WPIX may produce the games provided it remits the following fees to MSG, payable

4. Financial Terms - MSG shall remit to WPIX the following per-game fees:

1989/90 Season - \$40,000 per game  
1990/91 Season - \$44,000 per game  
1991/92 Season - \$48,000 per game  
1992/93 Season - \$52,000 per game

With respect to the 1989/90 Season, the aggregate annual fee shall be remitted on January 15, 1990. Thereafter, the aggregate annual fee shall be payable by WPIX deducting from its subsequent March 15 Yankees payment to MSG described above at the applicable sum otherwise payable by MSG.

5. Production - MSG shall produce all 25 games, and shall deliver the signal thereof to WPIX, at MSG's cost and expense.

6. Schedule - WPIX shall receive a representative schedule of 25 games. MSG shall use its best efforts to deliver as many Tuesday and Friday night games as possible. In the event of a dispute with respect to scheduling, MSG's decision shall control, consistent however with the provisions of this paragraph.

7. Commercial Inventory - MSG shall have the right to utilize all commercial inventory in all of the games. MSG shall air a reasonable number of promotional spots for WPIX during the course of said games.

8. Play-offs - MSG is ready to discuss the delivery of Knicks and Rangers away play-off games on terms mutually acceptable to MSG and WPIX.

#### GENERAL

1. Right of First Negotiations - MSG and WPIX shall enter into exclusive first negotiations with respect to the rights described in this proposal for the period of time commencing at the expiration of the term. Such exclusive first negotiations shall commence on March 1, 1993, and shall continue thereafter for 30 days. In the event no mutually acceptable agreement is reached, each party will be free to negotiate with respect to any other potential business opportunity.

2. Copyrights - As between MSG and WPIX, MSG shall own all copyrights to all of the programming described in this proposal.

This writing constitutes a business proposal. MSG reserves the right, at any time, to add to, delete from, modify or retract in its entirety this proposal. Any acceptance of this proposal shall be subject to the good

MADISON SQUARE GARDEN CORPORATION

TWO PENNSYLVANIA PLAZA  
NEW YORK, NEW YORK 10121-0091

**EXHIBIT 2**

ROBERT M. GUTKOWSKI  
EXECUTIVE VICE PRESIDENT  
COMMUNICATIONS GROUP  
(212) 563-8028

May 10, 1990

**BY HAND**

Mr. Michael Eigner  
General Manager  
WPIX-TV, Inc.  
220 East 42nd Street  
10th Floor  
New York, NY 10017

Dear Michael:

Confirming our various conversations over the past several months, Madison Square Garden Network ("MSG") hereby offers to license to WPIX-TV Inc. ("WPIX") the over-the-air, television broadcast rights to certain New York Yankees baseball games. The terms of this offer are as follows:

1. Term - Three years covering each of the 1991, 1992 and 1993 baseball seasons.

2. Product - A minimum of fifty, and a maximum of fifty-five, regular season games during each of the three baseball seasons. In addition, Madison Square Garden would include three pre-season Yankees games each year.

3. Carriage - Over the-air broadcast television carriage. All games will be broadcast on a live basis. WPIX will have no replay rights.

Mr. Michael Eigner  
May 10, 1990  
Page Two

6. Schedule - WPIX will receive a representative schedule of games, establishing (as close as is practicable) parity between over-the-air television broadcasts and cable telecasts of Yankees games with respect to (i) starting times of the games and (ii) the quality of the Yankees' opponent. In the event of any dispute with respect to scheduling, MSG's decision shall control, consistent however with the provisions of this paragraph.

7. Commercial Inventory - WPIX shall have the right to utilize all commercial inventory in the games.

8. Right of First Negotiation - MSG and WPIX will enter into exclusive first negotiation with respect to the rights described in this proposal for the period of time commencing at the expiration of the term. Such exclusive first negotiation will commence on March 1, 1993, and shall continue thereafter for 30 days. In the event no mutually acceptable agreement is reached, each party will be free to negotiate with respect to any other potential business opportunity.

9. Copyrights - As between MSG and WPIX, MSG will own all copyrights to all of the programming described in this proposal.

As I am sure you realize, the per-game financial terms offered above represent MSG's cost of such games payable to the original rights holder, the New York Yankees. This offer, therefore, results in no "mark-up" or similar financial reward to MSG.

In addition to the foregoing, and consistent with our prior conversations, MSG very much desires to enter into good faith negotiations concerning a potential twenty-game annual package of regular season Knicks and Rangers games. As we have stated before, we believe this package would be both attractive to WPIX and of significant interest to the general New York market place. These negotiations would be separate and distinct from our above-described offer regarding Yankees games.

This letter constitutes a formal, business offer. We must, of course, reserve the right to modify or retract this offer should that become necessary at any time. Your acceptance of our above-described offer would be subject to further good faith negotiation and execution of a mutually acceptable agreement between MSG and WPIX.

Mr. Michael Eigner  
May 10, 1990  
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As I am sure you can appreciate, should WPIX not be interested in the above-described offer, MSG will have to begin considering its various alternative options for Yankees games. I therefore would very much appreciate your responding to me, in writing, regarding this offer by no later than two weeks from the date of this letter.

I look forward to hearing from you soon.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bob' with a stylized flourish extending to the right.

Robert M. Gutkowski